



Cardiff City Council Act 1984

CHAPTER xv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Application of enactments.

PART II

WORKS

4. Power to construct work.
5. Subsidiary works.
6. Subsidiary operations in river.
7. Power to deviate.
8. Stopping up and diversion of paths.
9. Temporary stoppage of watercourses, roads, footpaths and bridleways.

Section

10. Notice to police.
11. Agreements with owners of land and others for execution of works.
12. Power to use bed and banks of watercourses.
13. Tidal works not to be executed without approval of Secretary of State.
14. Provision against danger to navigation.
15. Abatement of works abandoned or decayed.
16. Survey of tidal works.
17. Permanent lights on tidal works.
18. Lights on tidal works during construction.
19. Saving for Trinity House.

PART III

LANDS

20. Power to acquire lands.
21. Correction of errors in deposited plan and book of reference.
22. Power to acquire new rights only.
23. Disregard of recent improvements and interests.
24. Extinction of rights affecting land.
25. Grant of new rights by persons under disability.
26. Agreements with adjoining owners.
27. Power to reinstate owners or occupiers of property.
28. Compensation arising from use of lands for refuse disposal.

PART IV

MISCELLANEOUS AND GENERAL

29. Seizure of horses.
30. Penalty for obstruction.
31. Modification of Town and Country Planning Act 1971.
32. For protection of water authority.
33. For protection of British Railways Board.
34. Saving for Control of Pollution Act 1974.
35. Arbitration.

SCHEDULE: Adaptation of Part I of the Act of 1965 in connection with purchase of easements or rights.

ELIZABETH II



1984 CHAPTER xv

An Act to empower the Council of the city of Cardiff to construct works and to acquire lands; to confer further powers on the Council; and for other purposes.

[12th July 1984]

WHEREAS the city of Cardiff is under the management and local government of the Council of that city (hereinafter referred to as “the Council”):

And whereas it is expedient that the Council should be empowered to construct in and in the vicinity of the tidal section of the river Rhymney the work authorised by this Act for the purpose of making available further lands for refuse disposal and in that connection to acquire lands:

And whereas it is expedient to confer upon the Council powers to deal with horses found on land in the city:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas a plan and sections showing the lines or situations and levels of the work by this Act authorised such plan showing also the lands which the Council may acquire or use under the powers of this Act and a book of reference to such plan containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same have been deposited in the office of the Clerk of the Parliaments, House of Lords and in the Private Bill Office of the House of Commons and with the chief executive of the South Glamorgan County Council which plan, sections and book of reference are in this Act referred to respectively as the deposited plan, the deposited sections and the deposited book of reference:

1972 c. 70. And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Short title. 1. This Act may be cited as the Cardiff City Council Act 1984.

Interpretation. 2.—(1) In this Act, unless the subject or context otherwise requires—

1965 c. 56. “the Act of 1965” means the Compulsory Purchase Act 1965;

“the Council” means the Council of the city of Cardiff;

“the limits of deviation” means the limits of deviation shown on the deposited plan;

“the river” means the river Rhymney;

1980 c. 43. “the statutory maximum” means the prescribed sum as defined in section 32 (9) of the Magistrates' Courts Act 1980;

“tidal work” means so much of the work as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;

“the tribunal” means the Lands Tribunal;

“the Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the water authority” means the Welsh Water Authority;
 “the work” means the work authorised by subsection (1) of section 4 (Power to construct work) of this Act and any works constructed in connection with or for the purposes of that work, and includes that work as extended, enlarged, altered, replaced or relaid under subsection (2) of that section.

PART I
 —cont.

(2) References in this Act to reference points shall be construed as references to National Grid reference points.

(3) This Act shall be read as if the words “or thereabouts” were inserted after each direction mentioned in section 4 (Power to construct work) of this Act.

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act and, as so incorporated, shall have effect as if—

Application of
 enactments.
 1845 c. 20.

(a) for the words “the period by the special Act limited for the completion of the railway” there were substituted the words “the period of five years from the commencement of the construction of the work authorised by the special Act”;

(b) the expression “the company” meant the Council; and

(c) the expression “the railway” meant the work authorised by this Act and “the centre of the railway” meant the centre line of the work respectively.

(2) (a) Part I of the Act of 1965 (except section 4, section 27, and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

1981 c. 67.

(b) In section 11 (1) of the Act of 1965, as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

(c) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

1845 c. 18.

PART II

WORKS

Power to
construct
work.

4.—(1) Subject to the provisions of this Act, the Council may in the community of Rumney in the city of Cardiff in the lines or situations and within the limits of deviation on the deposited plan and according to the levels shown on the deposited sections make and maintain the following work, hereinafter described, together with all necessary works and conveniences connected therewith:—

An embankment or sea wall commencing by a junction with the existing sea wall at reference point ST 218780, curving in a south-westerly and south-south-west direction to reference point ST 215776, then curving in an easterly, east-north-east, south-easterly, easterly and north-easterly direction and terminating by a junction with the existing sea wall at reference point ST 227778.

(2) The Council may within the limits of deviation for the said work extend, enlarge, alter, replace or relay the same.

(3) Subject to the provisions of this Act, the Council may by means of the work enclose and reclaim from the foreshore or bed of the river or of the sea so much of the foreshore or bed of the river or of the sea as is included within the limits of land to be acquired delineated on the deposited plan and described in the deposited book of reference and is landward of the said work.

(4) The Council may exercise the powers of subsections (1) and (3) of this section notwithstanding interference with rights of navigation.

1976 c. 70.

(5) Section 29 of the Land Drainage Act 1976 shall not apply to the construction of the work.

Subsidiary
works.

5.—(1) Subject to the provisions of this Act, the Council in connection with or for the purposes of the work and the enclosing, reclaiming and use for the disposal of refuse of the lands delineated on the deposited plan and described in the deposited book of reference may within the limits of deviation or on such lands, in addition to the work—

(a) make, provide and maintain all necessary and convenient walls, banks, embankments, borrow-pits, hards, moorings, piling, fences, culverts, drains, intakes, syphons, watercourses, weirs, sluices, mattresses, pitching, roads, drives, bridges and footpaths, offices and other buildings, structures, machinery and apparatus;

- (b) remove and if thought fit utilise in and for the work so much of the existing sea wall as will be rendered unnecessary by reason of the execution of the work;
- (c) dispose of spoil or other material excavated in the execution of the work;
- (d) execute any works for the protection of any adjoining lands, buildings or structures;
- (e) remove, alter, divert, stop up or interfere with any drain, sewer or watercourse or any mains, pipes, wires and other works and apparatus for conveying or transmitting water or electricity, the Council providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any watercourse; and
- (f) fell, lop or cut and remove any tree, bush, shrub or other vegetation.

PART II
—cont.

(2) Any drain, sewer, watercourse, mains, pipe, wire and other works or apparatus (in this subsection referred to as “apparatus”) rendered unnecessary by the substitution of other apparatus therefor under the powers of this section shall vest in the Council.

(3) In the exercise of the powers conferred by this section, the Council shall cause as little detriment and inconvenience to any person as circumstances admit and shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Council of such powers. Any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

6.—(1) The Council may in connection with or for the purposes of the work and the enclosing, reclaiming and use for the disposal of refuse of the lands delineated on the deposited plan and described in the deposited book of reference—

Subsidiary
operations in
river.

- (a) dredge, scour and cleanse the foreshore and the banks and bed of the river and of the sea;
- (b) moor or anchor temporarily vessels, barges or other craft in the river:

Provided that no materials so dredged by them shall be deposited below the level of mean high-water springs except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

(2) The Council shall ensure that, in exercising the powers of this section, they shall not unreasonably narrow or obstruct the navigable waterway of the river or the flow of water therein.

PART II
—cont.

Power to deviate.

7. The Council in constructing the work may deviate laterally from the line or situation thereof shown on the deposited plan to any extent not exceeding the limits of deviation and may deviate vertically from the levels of the work shown on the deposited sections to any extent not exceeding three metres either upwards or downwards.

Stopping up and diversion of paths.

8.—(1) Following completion of the work and the provision by the Council of a new footpath between the points V and W marked on the deposited plan (extending from the point V along the existing embankment or sea wall to the commencement of the work and thence upon and along the line of the work)—

(a) the Council may stop up so much of the footpaths designated “Footpaths to be stopped up” on the deposited plan, being the footpath between the point of commencement of the work and the point marked Z and the footpath between the points marked X and Y; and

(b) the said new footpath between the points V and W so marked shall become a public footpath.

(2) Upon the stopping up of the footpaths specified in subsection (1) (a) above, all rights of way over or along the same shall be extinguished and the Council may appropriate and use the site and soil thereof so far as they are the owners of the same.

Temporary stoppage of watercourses, roads, footpaths and bridleways.

9.—(1) The Council during and for the purpose of the execution of the work may temporarily stop up and divert and interfere with any watercourse or any road, bridleway or footpath and may for any reasonable time divert the traffic from any such road, bridleway or footpath and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway or footpath from passing along and using the same.

(2) Reasonable access shall be provided for foot-passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) The powers of this section shall not be exercised with reference to any road, bridleway or footpath without the consent of the highway authority and, in the case of a road, bridleway or footpath which is vested in any person other than the highway authority, that person, and any such consent may be given subject to such reasonable conditions (other than a monetary payment as the consideration for the grant of the consent) as the highway authority or other person may think fit to impose but shall not be unreasonably withheld, and any

question whether any such consent is or is not unreasonably withheld or whether any conditions are or are not reasonable shall be determined by arbitration.

PART II
—cont.

10. Before breaking up or otherwise interfering with any road in connection with the construction of the work, the Council shall (except in a case of emergency) give 14 days' notice to the chief officer of police of their intention so to do.

Notice to
police.

11.—(1) The Council may enter into and carry into effect agreements or arrangements with the water authority or the owners of or other persons interested in any land in or through which the work is or may be constructed or the drainage of which may be affected by the construction of the work for or with respect to the doing of anything which may be rendered necessary or convenient by reason or in consequence of the exercise of the powers of this Act.

Agreements
with owners
of land and
others for
execution
of works.

(2) Any such agreement may provide for—

- (a) the payment by the Council of or the making of contributions by them towards the cost incurred or to be incurred by the water authority or any such owners or other persons in or in connection with the doing of any such thing; or
- (b) the payment by the Council of compensation for any injury suffered by the water authority or any such owners or other persons by reason or in consequence of the execution by the Council of the work.

12.—(1) Subject to the provisions of this Act, the Council may for the purposes of the work enter upon and use so much of the bed or banks of any watercourse as is within the limits of deviation and as may be required for those purposes, and they may also for the purposes of executing and placing temporary works and conveniences in connection with the work occupy and use temporarily so much of such bed and banks within the said limits as may be required for those purposes or any of them.

Power to
use bed and
banks of
watercourses.

(2) The Council shall, not less than 7 days before entering upon and using the bed or banks of any watercourse as aforesaid, give notice of their intention to the occupier of the land comprising such bed or banks and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by the Council of the powers conferred by this section, and any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

PART II
—cont.

Tidal works
not to be
executed
without
approval
of Secretary
of State.

13.—(1) A tidal work shall not be constructed, extended, enlarged, altered, replaced or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, extended, enlarged, altered, replaced or relaid in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the Council at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Council they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work, or part of it, and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Council.

Provision
against danger
to navigation.

14.—(1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Council shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Council fail to notify the Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement
of works
abandoned
or decayed.

15.—(1) Where a tidal work is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Council at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs, is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of 30 days from the date when a notice under this section is served upon the Council, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Council.

PART II
—cont.

16. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work constructed by the Council, or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Council.

Survey of
tidal works.

17.—(1) After the completion of a tidal work, the Council shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

Permanent
lights on tidal
works.

(2) If the Council fail to comply in any respect with a direction given under this section, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

18.—(1) The Council shall at or near a tidal work during the whole time of the construction, extension, enlargement, alteration, replacement or relaying thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

Lights on tidal
works during
construction.

(2) If the Council fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

19. Nothing in this Part of this Act shall prejudice or derogate from the powers, rights and privileges of the Trinity House.

Saving for
Trinity House.

PART III

LANDS

20.—(1) Subject to the provisions of this Act, the Council may enter upon, take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for the purposes of—

Power to
acquire lands.

(a) the work or obtaining access thereto;

PART III
—cont.

(b) obtaining materials for the construction of the work, or depositing spoil or other material excavated during the construction thereof;

(c) the disposal of refuse;

or otherwise for the purposes of this Act or other purposes connected therewith.

(2) (a) The powers of the Council for the compulsory acquisition of lands under this section shall not be exercised after 31st December 1987.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if before 31st December 1987, notice to treat has been served in respect of that land.

Correction
of errors in
deposited plan
and book of
reference.

21.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Council after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the chief executive of the South Glamorgan County Council, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to take the land or an easement therein (as the case may be) and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

Power to
acquire
new rights
only.

22.—(1) References in this section to the acquisition by the Council of new rights are references to the acquisition of rights to be created in favour of the Council, including rights restrictive of the user of land; and the expression "new right" shall be construed accordingly.

(2) The Council may, instead of acquiring any land under section 20 (Power to acquire lands) of this Act, acquire compulsorily such new rights as they require over or in the land.

(3) Any new right so acquired shall, as respects the burden of the right, run with the land and be enforceable by the Council against the estate and interest of every person to or for whom compensation or (where the new right is acquired by agreement) the agreed purchase price is paid and all persons deriving title by, through or under that person without any limit of time and as though, as respects the benefit of the right—

(a) the Council had at all material times been the absolute owners in possession of ascertained land adjacent to the land subject to the burden of the right and capable of being benefited thereby; and

(b) the right was created or imposed by a grant or covenant expressed to be for the benefit of that adjacent land.

(4) Any new right acquired under this section, whether compulsorily or by agreement, shall be a local land charge.

(5) (a) The Council may give notice to treat in respect of any new right, describing the nature thereof; and the Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory acquisition of new rights under subsection (2) above as it applies to the compulsory acquisition of land so that, in appropriate contexts, references in that Act to land are read as referring, or as including references, to the new rights or to land over which the new rights are or are to be exercisable, according to the requirements of the particular context.

(b) Without prejudice to the generality of paragraph (a) above, in relation to the purchase of new rights in pursuance of subsection (2) above—

(i) Part I of the Act of 1965 shall have effect with the modifications specified in the Schedule to this Act;

(ii) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

(6) The Council may, with or without consideration, release either wholly or partly any new right acquired under this section.

(7) Where the Council have acquired only a new right over or in any land under this section they shall not be required or, except by agreement or during the execution of the work authorised by this Act, entitled to fence off or sever that land from the adjoining land.

PART III
—*cont.*

Disregard
of recent
improvements
and interests.

23. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, works executed, or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was, at the time of the erecting, executing or making of the building, works, improvement or alteration, directly or indirectly concerned if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Extinction of
rights affecting
land.

24.—(1) All rights over or in any land which may be acquired or appropriated by the Council for the purposes of this Act shall, as from the acquisition or appropriation of the land, be extinguished.

(2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Council compensation to be determined in case of dispute by the tribunal.

Grant of
new rights by
persons under
disability.

25.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the Council any new right required for the purposes of this Act over or in the lands, not being a new right of water in which some person other than the grantor has an interest.

(2) The provisions of the Act of 1965 with respect to lands and rent-charges, so far as they are applicable, shall extend and apply to any such grant and to any such new right as aforesaid.

Agreements
with adjoining
owners.

26.—(1) The Council may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion of the work, or of land which may be acquired by the Council under this Act, with respect to the sale by the Council to him (subject to such reservations, restrictions or other provisions as to the Council seem fit) of any land not required for the work.

(2) The Council may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Council for the purposes of this Act or any new right (within the meaning of subsection (1) of section 22 (Power to acquire new rights only) of this Act) which is so required.

27.—(1) The Council may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act with respect to his reinstatement.

PART III
—cont.
Power to
reinstate
owners or
occupiers of
property.

(2) Any such agreement may provide for the exchange of land; and for that purpose the Council may pay or receive money for equality of exchange.

28. Section 278 of the Public Health Act 1936 shall apply with respect to the disposal of refuse by the Council on any lands acquired under the powers of section 20 (Power to acquire lands) of this Act and used for such disposal, as the said section 278 applies to the exercise by a local authority of any of their powers under the said Act of 1936.

Compensation
arising from
use of lands
for refuse
disposal.
1936 c. 49.

PART IV

MISCELLANEOUS AND GENERAL

29.—(1) The Council may seize and impound any horse which is on land in the city without the consent of the occupier of the land but shall not do so, unless they are themselves the occupier, except at the request or with the consent of the occupier of the land.

Seizure of
horses.

(2) The Council shall, within 24 hours after impounding any horse under this section, give notice of the impounding to the officer in charge of a police station and also to the owner of the horse if his identity be known to them.

(3) The Council shall keep a register of all horses seized by them under this section containing a brief description of each horse, the date of seizure and particulars as to the manner in which each such horse is disposed of and the register shall be open to public inspection at all reasonable times.

(4) If after 7 clear days from the date of impounding the owner has not claimed a horse and paid all expenses incurred in seizing, impounding and maintaining it, the Council may sell or otherwise dispose of the horse otherwise than by destruction, and if after 14 clear days from the said date the owner has not claimed the horse and paid all such expenses the Council may destroy the horse in a manner to cause as little pain or distress as possible.

(5) Whilst any horse is impounded by the Council under this section the Council shall cause it to be properly fed and maintained.

(6) Where the Council dispose of any horse under subsection (4) above, they shall be accountable to the owner of the horse

PART IV
—cont.

for any money arising from the disposal after deducting all expenses incurred by reason of its seizure, impounding, maintenance and disposal; but nothing in this subsection shall render the Council so accountable if the Council have accounted to any other person whom they reasonably believed to be the owner.

(7) In this section “horse” includes a pony, mule or ass.

Penalty for
obstruction.

30. Any person who intentionally obstructs any officer of the Council acting in execution of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modification
of Town and
Country
Planning Act
1971.
1971 c. 78.
S.I. 1977/289.

31. In their application to development authorised by this Act, Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to such development begun within 10 years after the passing of this Act.

For protection
of water
authority.

32. For the protection of the water authority the following provisions shall unless otherwise agreed in writing between the Council and the water authority apply and have effect:—

(1) In this section—

“construction” includes execution and placing and “construct” and “constructed” have corresponding meanings;

“plans” includes descriptions, drawings and specifications;

“protected fishery” means the river and fish in, or migratory fish proceeding to or from, the river and the spawning grounds, spawn or food of fish in the river;

“specified work” means the work and any work or operation carried out under section 5 (Subsidiary works) or section 6 (Subsidiary operations in river) of this Act which affects the bed of the river or which may injuriously affect the flow, purity or quality of the water in the river or cause obstruction to the free passage of fish therein:

(2) (a) Not less than 28 days before commencing any specified work the Council shall submit plans of such work to the water authority for their reasonable approval and shall not commence the specified work

until such plans have been approved by the water authority or in the case of difference until they have been settled by arbitration:

PART IV
—cont.

Provided that if the water authority do not within 28 days after the receipt of any such plans signify to the Council their disapproval thereof and the grounds for their disapproval they shall be deemed to have approved thereof:

- (b) In the case of any work or operation carried out under the said section 5 or 6 in an emergency the Council shall not be required to submit plans thereof before commencing the same but they shall give to the water authority such notice and such particulars thereof as may be practicable in the circumstances before the work or operation is commenced, with further particulars and plans as soon as reasonably practicable thereafter:
- (3) Upon signifying the approval of the plans of any specified work the water authority may specify any steps reasonably required for the protection of the protected fishery which should be taken by the Council during the construction of the specified work, including (except in case of the construction, any major extension or enlargement, or any replacing or relaying of the embankment or sea wall authorised by subsection (1) or (2) of section 4 (Power to construct work) of this Act) the period within which or time at which the specified work shall be constructed:
- (4) (a) Subject to the provisions of this section a specified work shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by the water authority as aforesaid or settled by arbitration and in accordance with any requirement made by the water authority under paragraph (3) above or settled by arbitration and shall be constructed to the reasonable satisfaction of the engineer of the water authority who shall be given reasonable notice of the date and time on and at which the work is to be commenced;
- (b) The Council shall at all reasonable times afford to the engineer of the water authority and his duly authorised representatives access to such specified work for the purpose of inspection:
- (5) (a) Plans of any specified work shall not be submitted by the Council to the Secretary of State for his approval under section 13 (Tidal works not to be executed without approval of Secretary of State) of

PART IV
—cont.

this Act until plans of that work have been approved by the water authority or settled by arbitration under this section, with or without requirements under paragraph (3) above, and if, on the submission of plans to the Secretary of State, the Secretary of State requires any alteration of the plans so approved or settled under this section or of any such requirement relating thereto, the Council shall, not less than 28 days before commencing the work, inform the water authority of any such alteration;

- (b) Subject to compliance with sub-paragraph (a) above, if there shall be any inconsistency between any plans approved or deemed to be approved by the water authority or settled by arbitration under this section, or any such requirement relating thereto, and the plans approved by the Secretary of State under the said section 13, or any conditions or restrictions imposed by him under that section, the specified work shall be constructed in accordance with the plans approved by the Secretary of State and subject to the conditions or restrictions imposed by him:
- (6) The Council shall indemnify and hold harmless the water authority from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any injury or damage which may be caused or result to the river so as to impair its efficiency as a drainage channel or to the protected fishery by or in consequence of the construction of any specified work or of the failure or want of repair thereof or in consequence of any act or omission of the Council, their contractors, agents, workmen or servants whilst engaged upon the work:
- Provided that the water authority shall give to the Council reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Council:
- (7) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the water authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Council from any liability under the provisions of this section:
- (8) Any difference arising between the Council and the water authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

PART IV
—cont.

For
protection
of British
Railways
Board.

33. For the protection of the British Railways Board (in this section referred to as “the railways board”) the following provisions shall unless otherwise agreed in writing between the Council and the railways board, apply and have effect:—

(1) In this section—

“the railway bridge” means the bridge of the railways board carrying the South Wales main line over the river;

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any land held or used by the railways board for the purposes of such railway or works:

(2) The Council shall not exercise—

(a) the powers of subsection (1) of section 6 (Subsidiary operations in river) of this Act within 465 metres of the railway bridge, other than for the purposes of removing any matter accidentally deposited in the river;

(b) the powers of section 9 (Temporary stoppage of watercourses, roads, footpaths and bridleways) of this Act with reference to any watercourse which for any of its length, is situated in, on, under or over railway property, or which connects with such a watercourse;

without the consent of the railways board and any such consent may be given subject to such reasonable conditions (other than a monetary payment as the consideration for the grant of the consent) as that board may think fit to impose but shall not be unreasonably withheld, and any question whether any such consent is or is not unreasonably withheld or whether any conditions are or are not reasonable shall be determined by arbitration.

34. Nothing in this Act shall affect the operation of section 11 of the Control of Pollution Act 1974 (use of land occupied by disposal authorities).

Saving for
Control of
Pollution
Act 1974.
1974 c. 40.

35. Where under this Act any difference is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed on the application of either party after notice in writing to the other, by the President of the Institution of Civil Engineers.

Arbitration.

Section 22.

SCHEDULE

ADAPTATION OF PART I OF THE ACT OF 1965 IN CONNECTION WITH
PURCHASE OF EASEMENTS OR RIGHTS

1. In the Act of 1965 (hereinafter in this Schedule referred to as "the Act") for section 7 (which relates to compensation) there shall be substituted the following:—

"7.—(1) In assessing the compensation to be paid by the Council under this Act regard shall be had not only to the extent, if any, to which the value of the land over or in which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

1973 c. 26.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted the words 'a right over or in land is purchased' and for the words 'acquired or taken from him' there shall be substituted the words 'over or in which the right is exercisable'."

2. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

section 9 (4) (failure of owners to convey);

paragraph 10 (3) of Schedule 1 (owners under incapacity);

paragraph 2 (3) of Schedule 2 (absent and untraced owners); and

paragraphs 2 (3) and 7 (2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Council.

3. Section 11 (Powers of entry) of the Act shall be so modified as to secure that as from the date on which the Council have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (Penalty for unauthorised entry) and 13 (Entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

4. Section 20 (Compensation for short-term tenants) of the Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking

into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

SCH.
—cont.

5. Section 22 (Protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) of the Act shall be so modified as to enable the Council, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

————— ∞ —————
PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR W. J. SHARP

Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£2.70 net

ISBN 0 10 511584 3